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Remarks

Reconsideration of the above-captioned application is respectfully requested. The election is affirmed. The indicated allowability of Claims 10, 11, 19, and 20 is gratefully acknowledged.

Claims 10, 11, and 13-20 have been rejected under 35 U.S.C. §112, second paragraph for indefiniteness on the ground that it is allegedly unclear whether "the shaft" of Claims 10 and 19 refer to the gear train shaft. Only one shaft - the gear train shaft - is recited. It is unnecessary to repeat each and every modifier of a term under these circumstances, MPEP §2173.05(e). It has also been alleged that Claim 13 is unclear as to what is extending beyond the shroud. The present amendment to Claim 13 cures this allegation albeit doing so in a way that arguably broadens the original recitation.

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed.

The substantive claim rejections are dealt with below in light of the present amendments, which specify that the valve elements are separate from each other as shown in Figures 2 and 3, or that a power supply supplies power to move the elements while operating at voltages at least in the range from about one hundred volts (100V) to about two hundred seventy volts (270V) as formerly set forth in Claim 18 and now recited in Claim 13, or that the valve element pivot both up simultaneously and/or both down simultaneously as recited in Claim 22 and as plainly shown in cross-reference to Figures 2 and 3. Note that a claim term need not have antecedent basis in the disclosure as long as the term conveys what is disclosed with reasonable clarity and precision, MPEP §2173.05(e), third full paragraph.

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The comments regarding the means-plus-function form of Claim 22 are noted. It is believed that clarifications to the specification identifying what structures are covered are unnecessary. By law, Claim 22 covers what is shown and described in the specification and structural equivalents thereto.

Rejections Under 35 U.S.C. §102

To support an anticipation rejection, every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining Procedure (MPEP) §2131.

Claims 1, 2, 5-9, 13-15, 17, 18, 22, 23, 26, and 27 have been rejected under 35 U.S.C. §103 as being anticipated by Zhang et al., USPN 6,528,782, which shows a single unitary disk-shaped shutter in a skylight tube. The Office Action appears to allege that the shutter has two valve elements (203); however, the element 203 in Zhang et al. is a surface of a single disk, col. 23, lines 50-55 (203 is one surface and 202 is the opposite surface). Nothing in Zhang et al., however, suggests the butterfly valve structure explicitly articulated in various ways in the present independent claims.

Also, nothing in Zhang et al. teaches that each valve element turns on a respective axle as otherwise required by Claim 2. "Respective" axle plainly refers to more than one axle, whereas Zhang et al. teaches only a single axle.

Moreover, it appears that Zhang et al. is solar powered. In any case, the allegation that Zhang et al. anticipates Claim 9 (and now amended independent Claim 13) because Zhang et al. has a power supply operating to supply power at voltages at least in the range from about one hundred volts (100V) to about two hundred seventy volts (270V) is, not surprisingly, without support or citation to Zhang et al. The presently

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claimed power supply refers to a robust power supply that operates over a specified wide range of voltages, an example being given in the specification.

Claims 13-16 have been rejected as being anticipated by Dayus, USPN 4,628,954, which shows spring-loaded damper panels 34 for an air vent. Nothing in Dayus suggests the robust power supply now set forth in Claim 13. The rejection has been overcome.

Rejections Under 35 U.S.C. §103

Claims 3, 4, 24, and 25 have been rejected under 35 U.S.C. §103 as being unpatentable over Zhang et al. in view of Dayus. There is no suggestion in Zhang et al., which uses its shutter to block and unblock light, to alter the shutter structure for purposes of air flow control, the purpose of Dayus. The proffered suggestion to combine the references - to provide for easier assembly - comes from the present specification, not from Zhang et al., which does not appear to be concerned with assembly, or from Dayus, which likewise does not appear to be concerned with ease of assembly much less in the skylight application of Zhang et al. Accordingly, the requirements of MPEP §2143.01 for properly establishing a *prima facie* case of obviousness have not been met.


The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

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